

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

BARBARA BRENNAN & DOMINIC  
CAPITOLO, h/w

vs.

HARRAH'S ATLANTIC CITY

CIVIL ACTION

NO. 1:14-CV-04988-RMB-KMW

**DEFENDANT'S ANSWER TO PLAINTIFFS' COMPLAINT**  
**WITH AFFIRMATIVE DEFENSES**

AND NOW, comes defendant, Harrah's Atlantic City Propco, LLC (incorrectly designated as "Harrah's Atlantic City"), and hereby responds to Plaintiffs' Complaint as follows:

1. Denied. Answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations contained in the corresponding paragraph of the Plaintiffs' Complaint and strict proof thereof is demanded at the time of trial if material.
2. Admitted in part, denied in part. Defendant's proper name is Harrah's Atlantic City Propco, LLC and it conducts business at 777 Harrah's Boulevard, Atlantic City, NJ. It is denied that said defendant conducts or transacts any business within the Commonwealth of Pennsylvania.
3. Denied. Answering defendant, after reasonable investigation, cannot determine from the wording of the corresponding paragraph of the Plaintiffs' complaint the identity of the individuals alleged to be it's agents, servants, workmen and/or employees and/or the actions alleged to have been performed within the course and scope

of their employment. Accordingly, said allegations are denied and strict proof thereof is demanded at trial, if material.

4. Denied as irrelevant.

5. Denied as irrelevant.

6. Denied as a conclusion of law.

7. Denied. It is denied that defendant has any type of activities in Philadelphia County as alleged in Plaintiffs' Complaint.

8. Admitted in part, denied in part. It is admitted that defendant owns, supervise, and care for the aforesaid casino. With respect to "control", it is noted that defendant's casino is open to the general public who, from time-to-time, "control" their own personal space.

9. Denied. It is denied that defendant was in any way careless or negligent as alleged in Plaintiffs' Complaint. To the contrary, at all times relevant, answering defendant operated with due care and concern under the circumstances.

10. Denied as stated.

11. Denied. It is denied that a dangerous condition existed as alleged and defendant further denies any allegations with respect to injuries allegedly sustained by the plaintiffs.

12. Denied. It is denied that defendant was in any way negligent or careless as alleged in Plaintiffs' Complaint. To the contrary, at all times relevant, answering defendant operated with due care and concern under the circumstances.

**COUNT I**

13. Answering defendant incorporates herein its responses to the previous paragraphs as though same were set forth herein at length.

14. Denied. It is denied that defendant was negligent, careless or reckless in any manner whatsoever including, but not limited to, the manners set forth in the corresponding subparagraphs. To the contrary, at all times relevant, answering defendant operated with due care and concern under the circumstances.

15. Denied. Defendants deny the occurrence as alleged by plaintiffs and further incorporate their prior responses as though same were set forth herein at length. Further, any allegations with respect to injuries or damages sustained by the plaintiffs are similarly denied.

16. Denied. Defendants deny the occurrence as alleged by plaintiffs and further incorporate their prior responses as though same were set forth herein at length. Further, any allegations with respect to injuries or damages sustained by the plaintiffs are similarly denied.

17. Denied. Defendants deny the occurrence as alleged by plaintiffs and further incorporate their prior responses as though same were set forth herein at length. Further, any allegations with respect to injuries or damages sustained by the plaintiffs are similarly denied.

18. Denied. Defendants deny the occurrence as alleged by plaintiffs and further incorporate their prior responses as though same were set forth herein at length. Further, any allegations with respect to injuries or damages sustained by the plaintiffs are similarly denied.

WHEREFORE, Answering defendant respectfully requests that this Honorable Court enter judgment in its favor.

## **COUNT II**

19. Answering defendant incorporates herein its responses to the previous paragraphs as though same were set forth herein at length.

20. Denied. It is denied that defendant was in any way negligent as alleged in Plaintiffs' Complaint. To the contrary, at all times relevant, defendant operated with due care and concern under the circumstances. The remaining allegations are denied as answering defendant, after reasonable investigation, presently lacks sufficient knowledge and/or information to admit or deny the allegations and thus they are denied.

WHEREFORE, Answering defendant respectfully requests that this Honorable Court enter judgment in its favor.

## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

Plaintiffs' Complaint fails to state a cause of action upon which relief may be granted.

### **Second Affirmative Defense**

Plaintiffs' Complaint is barred by the applicable statute of limitation.

### **Third Affirmative Defense**

Plaintiffs' actions are barred and/or limited by the New Jersey Comparative Negligence Act or similar laws.

**Fourth Affirmative Defense**

Plaintiffs' claims are barred and/or limited by the Doctrine of Assumption of the Risk.

**Fifth Affirmative Defense**

Plaintiffs' injuries or damages, said injuries and damages being specifically denied, were caused by the acts or omissions of the plaintiff or those of third parties over whom answering defendants had no control.

**Sixth Affirmative Defense**

Answering defendant pleads any and all releases entered into by the plaintiffs, or to be entered into by plaintiffs, as a reduction, in whole or in part, of any damages plaintiffs is entitled to recover from answering defendant, it being specifically denied that answering defendant are in any way liable to the plaintiffs in any respect.

**Seventh Affirmative Defense**

Answering defendant reserves the right upon completion of investigation and discovery, which is ongoing, to file such additional Affirmative Defenses, Counter Claims, and/or Third Party Complaints as may be appropriate.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in its favor.

**DEMAND FOR JURY TRIAL**

Defendant hereby demand a jury trial in this matter.

**MINTZER, SAROWITZ, ZERIS, LEDVA  
& MEYERS, LLP**

BY: /s/ Lawrence M. Kelly

LAWRENCE M. KELLY , ESQUIRE  
Attorney for Defendant(s), HARRAH'S ATLANTIC  
CITY PROPCO, LLC (Incorrectly designated as  
"HARRAH'S ATLANTIC CITY")

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**MSZL&M File No. 007770.000411**

**CERTIFICATE OF SERVICE**

I, LAWRENCE M. KELLY, ESQUIRE, do hereby certify that a true and correct copy of the within Answer with Affirmative Defenses was forwarded by First Class Mail, postage pre-paid on the 7th day of November, 2014 as follows:

Anthony F. DiMento, Esquire  
ELKIND & DIMENTO, P.A.  
2090 East Route 70  
Cherry Hill, NJ 08003

/s/ Lawrence M. Kelly  
LAWRENCE M. KELLY, ESQUIRE